

[Mr. President]

[6th March 1947]

sixteen hours out of which, I think, the Leader of the Opposition may have one hour and the reply on behalf of Government may take one hour. That leaves us fourteen hours for all the four days. Last year, we had about 33 speakers on the Budget and this year, I mean to have at least 20 minutes for each member so that we may have at least 42 speakers and if so many are inclined to speak, I am prepared to allow. I would request those hon. Members who want to speak to give their names to the Secretary beforehand, so that I may know how many are willing to speak and whether I should allow anybody more than 20 minutes or curtail even the twenty minutes. I would also like to inform hon. Members that all those who wish to speak may begin straightaway. I would request them not to keep themselves reserved to the end until it gets crowded and some members may not get a chance. Please do not blame me afterwards if I bring down my hammer heavily on anyone. I request all members to be ready to speak on the Budget even from to-morrow."

III.—MESSAGE FROM THE ASSEMBLY.

MR. PRESIDENT :—" As regards the business for to-day, I have to announce to the House that the following message, dated Fort St. George, the 5th March 1947, has been received by me from the Hon. the Speaker of the Madras Legislative Assembly :—

"In accordance with rule 94 of the Madras Assembly Rules I transmit a copy of the Madras Maintenance of Public Order Bill, 1947 (L.A. Bill No. 8 of 1947) as passed by the Assembly on the 5th March 1947 and signed by me for the concurrence of the Council."

IV.—THE MADRAS MAINTENANCE OF PUBLIC ORDER BILL, 1947 (AS PASSED BY THE ASSEMBLY).

MR. PRESIDENT :—" Before I call upon the Hon. the Premier to move for consideration of the Bill, I would like to mention that since the Bill does not seem to have undergone much change in the other House, we can take up the consideration of the Bill to-day. I would request those members who would like to take part to inform me. I would like to finish the general consideration of the Bill to-day so that we may take up consideration clause by clause to-morrow. If I get the names, I will then be able to tell the Leader of the Opposition how long we have to sit."

K. UPPI SAHIB BAHADUR :—" May I submit, Sir, one important matter. I have to bring to your notice that it has become almost a rule to throw such important Bills on us at such short notice. The rules require that we must have at least a day's time. Under extraordinary circumstances, extraordinary powers are taken. In this matter, Sir, the Opposition also agreed that Bill may be taken up to-day. But, Sir, I submit that we were not allowed even 24 hours time that is prescribed under the rules and we had only 18 hours. For such an important Bill as this, we should have at least a couple of days. You said, Sir, that the Bill has not undergone much change. It is true. But, we do not know what changes have been made in the other House. I crave you to protect the Opposition from such a hustle on the part of the Government members."

6th March 1947]

MR. PRESIDENT :—“ May I bring to the notice of the Hon. the Leader of the Opposition what an amount of pressure I had to put on the Government to see that the business in the other House is finished soon so that hon. Members here may have an opportunity to study the Bill and discuss on it? I thought that as the Bill had been published long ago and a statement had also been made on the Ordinance by the Hon. the Premier, this House would be ready to discuss it to-day. I think there can be no objection to discuss at least the principle of the Bill. As regards discussion clause by clause, hon. Members have got nearly two days and so, I think Mr. Uppi Sahib's objection has been amply met. I can also assure the Leader of the Opposition that I have been very cautious in this matter that members should not be hustled in their discussion of this Bill.”

K. UPPI SAHIB BAHADUR :—“ I think I was not clearly understood. In this particular matter, Sir, it may be all right but hereafter, if such occasion arises when there is a hustle, we ask you to protect the Opposition.”

MR. PRESIDENT :—“ I wish to inform hon. Members I have been at pains to protect their interests.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ May I know, Sir, till what time we can give notice of amendments? ”

MR. PRESIDENT :—“ Till to-morrow evening 5 o'clock.”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Our amendments have very little chance of going through. So, we request that this House may be given sufficient time to discuss the principles of the Bill.”

MR. PRESIDENT :—“ I have no objection to grant the request of the hon. Member but there are really a dozen amendments and if the hon. Members are prepared to withdraw their amendments, I am prepared to give any amount of time to discuss the principle of the Bill.”

MR. V. K. JOHN :—“ There may be speeches when moving amendments, Sir.”

THE HON. SRI T. PRAKASAM :—“ To-day we may take up the general discussion and a part of to-morrow may also be taken up for that purpose and for the rest of to-morrow, we may have amendments.”

MR. PRESIDENT :—“ That depends on the interest evinced in the business; if the House is anxious to have a general discussion tomorrow also, I may allow. The Hon. the Premier will now move his motion.”

THE HON. SRI T. PRAKASAM :—“ I move, Sir—

‘ that the Madras Maintenance of Public Order Bill, 1947 (L.A. Bill No. 8 of 1947) as passed by the Assembly be taken into consideration at once.’ ”

MR. PRESIDENT :—“ I would very much appreciate if such of the members who want to speak inform me beforehand.”

[6th March 1947]

* SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, without giving my name to you, I have taken the liberty of speaking. I would like to detain the House for a few minutes to discuss only the principles of the Bill. It is very difficult, Sir, while dealing with the principles of the Bill not to refer to certain important provisions. I may be excused, Sir, if I do so, and thereby perhaps indirectly violate one of the rules of this Council. My first complaint is about the failure of the Government to appoint a Joint Committee of both Houses to consider an important Bill of this kind. We have time and again, Sir, commended the suggestion to the Leader of the House that where such important measures are concerned, it will be advantageous both to the Legislature as well as to the Government to have a Joint Committee of both Houses so that all the points may be thrashed out and when the Bill comes before either of the Houses from the Committee, its passage may be ensured as quickly as possible. But, again, Sir, the same old course has been repeated in regard to this Bill also.

5-50
p.m.

“ Then, Sir, I understand that this Bill must become law and obtain the sanction of the Governor-General before the 13th instant. The other Chamber is not sitting till the 12th instant. Practically, Sir, even if the Government see the wisdom of some of the suggestions made by this House, they cannot accept them, as the other House is not meeting till then. You remember, Sir, you were pleased to draw the attention of the Government to these facts in one of your closing remarks. Now, we are practically asked to register our consent to the Bill as it has emerged from the Assembly and so we will not have any part in moulding this legislation owing to the indifferent attitude of the Government towards this House. Sir, this is the only occasion when we can make complaints through you to the Government and it looks as if the Government are callous to any representation made by the members of this House and they are treating us, Sir, as though we are the fifth wheel to the coach. But, may I point out that even a fifth wheel serves a definite purpose in serving as a brake when legislation is rushed through at a break-neck speed as on the present occasion.”

MR. PRESIDENT :—“ Or when one of the four wheels goes off.” (Laughter.)

* SRI R. SURYANARAYANA RAO :—“ Another thing is that some of us are laymen. We believe that the existing laws, laws that are already on the Statute Book, both Central and Provincial, are sufficient to deal with a situation of the kind which this Bill is meant to tackle. I wish the Advocate-General were here—of course, I do not wish to make any complaint—to enlighten such of us who doubt the wisdom of enacting a piece of legislation of this kind. But, I may be told, we have in the Hon. the Minister for Law, an eminent lawyer who is always ready to assist the House. I wish I could count on his assistance, but on this occasion, he is on the other side.”

* MR. PRESIDENT :—“ If the hon. Member had informed me previously, I would have asked the Hon. the Premier to request

6th March 1947]

[Mr. President]

the Advocate-General to be present here. When I was in the Assembly last, I used to see the Advocate-General sitting there almost every day. I hope the Government will take note of it."

SRI R. SURYANARAYANA RAO :—" Sir, the Hon. the Minister for Law who was once a redoubtable champion of civil liberties has become a meek party to the infringement of those liberties . . ."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Because probably he is occupying the Treasury Bench."

THE HON. SRI K. BHASHYAM :—" Nothing of the kind."

* SRI R. SURYANARAYANA RAO :—" Sir, he seems to have given the go-bye to the principles of a life time by which he once swore. I hope, Sir, when he says ' nothing of the kind ' perhaps he does not mean civil liberties. Let me make my point quite clear, Sir. I speak to-day on this Bill, which aims at the civil liberties of the people, as one not wedded to any particular ideology but as a common man to whom the liberties to be deprived of under the Bill are as dear as to those who occupy to-day the Treasury Bench and who have in the past raised their voice of protest against the infringement of civil liberties with perhaps greater vehemence than I am capable of. The fact seems to be they have changed their places now and they are in power. I thought, Sir, people in power, should all the more be wary not to infringe the civil liberties which they valued so much and I trust which they value even now. What has happened to these good friends who are sponsoring this piece of legislation now? Instead of trying to remove if there are any obnoxious pieces of legislation still lingering on the Statute Book, they are trying to add to the list. What is this transformation due to? Is it due to the overwhelming sense of responsibility for law and order, which they seem to have suddenly developed?

" Now, Sir, let us consider dispassionately whether the existing laws are not enough to meet a situation which they feel has arisen. What is the situation, Sir? I only attempt to paraphrase their words. A handful of people, certainly—comparatively a handful when compared to the legion in 1942—have made themselves a nuisance and workers who till now silently bore the ills of life, have been made to realize their rights, become conscious of their wretched lot and have been organized to demand better treatment. The change brought about may be termed as the quickening of social consciousness on all sides. When a movement of that kind is organized on a somewhat big scale—but this is particularly very small compared to the movement in 1942—some excesses are bound to occur. On that account, is it wise to suppress a movement altogether? In 1942, did not worse excesses take place, Sir? Did we on that account support the indiscriminate arrests, detentions and other forms of suppression of civil liberties? Every one raised his voice of protest and those who were not even votaries of the Congress were even louder in their protests. How many hon. Members who are here and who were victims then, felt and even now feel, they were rightly arrested and detained? They cannot

[Sri R. Suryanarayana Rao] [6th March 1947]

pretend they were innocent—and are even now innocent—and that those who are continuing the work which they themselves supported or acquiesced in are rebels and should be punished. Change of place has effected a change in principles. Excesses likely to injure peace and order should be punished, whoever may be the party—congressmen, communists or the moderates. The existing laws are sufficiently wide in scope to bring such people under their provisions but to arm themselves with this draconian piece of legislation which suspends, in the words of a paper, indefinitely, the fundamental liberties of the citizen, such as the liberty of movement, right of association, freedom of speech, freedom from arrest and imprisonment without trial, is, I submit, Sir, a sign of defeatism and not of strength. It shows how weak the Government are to deal with excesses. Unless there are legitimate grievances, the seeds of discontent cannot be sown and even if they are sown they cannot sprout and thrive. What is necessary to counteract such propaganda? Are measures of the kind that are now introduced, measures calculated to remove the grievances? Sir, hon. Members of this House may remember that in reply to a question that I put regarding the relationship between the landlord and the tenant in the Tanjore district asking if one of the points of contention was the demand on the part of the cultivators to have a greater share of the produce, the hon. the Minister for Revenue agreed that it was one of the points of contention. Why not remove that point of contention? As hon. Members of this House are aware, the Government of Bengal has introduced a measure to accord two-thirds of the produce as the share of the cultivator and Mahatma Gandhi blessed that effort.

6-p.m. “Instead of undertaking legislation of that kind why put down a movement of the ryots who combine themselves together in order to demand what they feel are just and legitimate rights? Sir, legislation of the kind that I have suggested would strengthen the hands of Government. Measures such as these will only drive discontent underground and when released will be beyond the capacity of any Government to control. Then, Sir, the danger will be more real than it is now. Nipping in the bud is only seen on the surface. Its effect will not be felt. Then Sir, I was anxious to know wherefrom all these sections that are put into this Bill were obtained. The wording was so good, so precise, sections are so well worded, so that anything unconsciously done could be brought under one section or the other. I say, Sir, I looked into the Defence of India Rules. I looked into the Defence of India Rules framed under the Defence of India Act. The sections are no more than a reproduction of the Defence of India Rules. There has not even been crossing of the t's and dotting of the i's. For the information of the House, Sir, I shall ask them to compare and see whether there is any difference. Take clause 2, it is Rule 26. Take clause 6, it is rule 56; clause 7, it is rule 58; clause 9, it is rule 41, clause 20, rule 75-A; clause 11, rule 59-A. These are only a few instances, Sir.”

MR. PRESIDENT:—“I suppose you had no hand in the drafting of this Bill.”

6th March 1947]

* SRI R. SURYANARAYANA RAO :—“ I do not think I would have drafted a Bill like this at all. It is known too well that these Defence of India Rules were framed to provide, to use the words of the preamble to the Defence of India Act. ‘ Special measures to ensure the public safety and interest created by an emergency’. That emergency arose out of the war. Does such an emergency exist now to menace the State to promulgate such Acts? I must, with due deference, say to the Hon. the Premier, that the statements which he has made in this House and those made in the other House which we have read from the newspapers do not indicate at all that the conditions are so bad that unruly elements cannot be dealt with under ordinary laws. It is pointed out, Sir, perhaps rightly, that legislation on similar lines has been enacted in other Provinces either in the shape of Ordinances or actual legislation. I grant that, Sir, but there the main causes are different and those causes do not exist in this Province. We are grateful to all communities who have exercised great restraint. We have been free from the virus of communal tension which has marred the reputation of many a province. The Hon. Prime Minister was perfectly justified to express a feeling of satisfaction and pride on the fact that our province was singularly free from serious communal troubles. We join with him and also take pride in the fact that this province has set a good example to all other Provinces. The Prime Minister’s complaint was only about anti-social activities. To demand for the redress of grievances, Sir, is not an anti-social act. In that case every strike that takes place becomes an anti-social act. Anti-social elements such as black-marketers flourish. I say this Bill should deal with such anti-social elements. A Bill ought to have been framed, Sir, to bring such anti-social elements within its purview. In that case, I am sure the Hon. the Prime Minister would have had the support of every member of this House as well as the other House; but, Sir, these anti-social persons pass off as respectable persons of society while the poor and the oppressed when they demand their rights are dubbed as rebels and should be wiped out at any cost.

“ Sir, what are the provisions of this Bill? I feel they are too drastic. The disease, even if you take it as such, does not require such a drastic remedy. They will hurt not only the wicked, they will hurt the good as well as the bad. I shall not be surprised if the result is the lowering of public spirit to such an extent that our provincial autonomy will become a mere mockery. Repressive powers which will receive the *imprimatur* of the legislature will run unchecked under the appearance of a democratic Government. May I in this connexion venture to quote the words of my revered and departed leader, the Right Hon’ble V. S. Srinivasa Sastri used on a similar occasion when what is known as the Rowlatt Act was on the anvil. They were used on 7th February 1919. They are as true to-day as they were then. I shall only read extracts apposite to the Bill under consideration. He said while speaking on the Rowlatt Bill,

‘ Well, we are all anxious to punish the wicked, none of us desires that wickedness should go unpunished, but at the same time I think it is one of the fundamental principles of criminal jurisprudence, in fact, one

[Sri R. Suryanarayana Rao] [6th March 1947]

of the very foundations of a stable society, that even the wicked must be punished in certain ways. When Skiffington was shot, I remember the whole world was shocked. Roger Casement had an open trial. But, if Roger Casement, a wicked man as he was, a criminal as he was, and thought so by all reasonable people, had been shot as Skiffington was shot, I beg leave to say the world would have been shocked. Even Roger Casement had his rights. He must be tried in open court and he must be allowed an opportunity of clearing his character. Now, even in war, when all humanity throbs with excitement and peril, and when nobody thinks of anything except how to conquer the enemy, even then, Sir, there are the laws of war; you have got to play the game.'

Later on, Mr. Sastri said—

6-10
p.m.

'There are laws not unknown to ancient chivalry illustrated by the life of Bhishma, laws which even in war may not be violated without incurring the serious reprobation of history. When there are criminals abroad in a country, there are certain ways in which they ought to be brought to book. You ought not to lay them by heels and punish them in ways that will shock the sense of justice, in ways that will make the innocent feel that there is no law in the land, in ways that will make honest, virtuous and public-spirited work impossible. The price even for the extinction of wickedness that is demanded then is far too high. Much better—it seems an ungracious thing to say—much better that a few rascals should walk abroad than that the honest man should be obliged, for fear of the law of the land to remain shut up in the house, to refrain from the activities which it is his nature to indulge in, to abstain from all political and public work merely because there is a dreadful law in the land.'

I shall give one more quotation and I am not reading the whole matter :—

'The history of legislation, both social and political, is strewn with instances of miscarriages of excellent intentions. Laws intended to cure poverty have aggravated it, multiplied it, laws intended to suppress crime may run very well in the same unhappy direction and I take leave to say to the Hon. Sir William Vincent (who was the Home Member of the Government of India at the time) that the laws now placed before us, which are aimed at purifying politics may come dangerously near suppressing it. You cannot place on the statute book such drastic legislation without putting into the hands of over-enthusiastic executive officers what I consider short cuts to administrative peace. As I said before even, peace in administration valuable as it is, can be sought in wrong ways. You provide them with short cuts to administrative peace, and there is no administration that is able to resist the temptation to run across these short cuts, when the only royal road to peace is the right road and the righteous road.'

'Sir, these words were spoken when the Rowlatt Bill was considered in the Imperial Legislative Council. I am pained to say that this Bill we are now considering is a kind of an amended edition, a similar edition, or as suggested by my friend is a concentrated form of the Rowlatt Bill. I remember, Sir, that was the Bill which led to serious consequences. The agitation against that Bill it was which practically laid the foundations of active political life which the Congress took up in 1919.

'I will leave it at that so that any effect that the words of the Right Hon. Sastri may make upon those who have heard them, may not be spoilt by any comment on my part.

'I come to the Defence of India Rules. The Defence of India Rules were subject to modification from time to time and in fact they have been amended often by means of notification because they were rules only. But here, these rules become sections in a statute and they cannot be so amended. Amendments can be made only by bringing in an amending bill before the legislature

6th March 1947] [Sri R. Suryanarayana Rao]

and that Bill must pass through both the Houses of Legislature. Sometimes, the amendments to the Defence of India Rules were made to assuage the rigours of some provisions and sometimes they were made more stringent as the exigencies of the situation demanded. These rules, as I observed, have been included as sections in the statute and so they cannot be easily changed when the situation demands.

“ I wanted to say that the existing laws are sufficient and I will illustrate my point. Let me take the imposition of collective fines. There is a law, I think, of which we from the Ceded districts are more aware than others, under which punitive police are stationed and the cost of maintaining it, is recovered from the inhabitants of the areas affected. I do not know why, when such a provision exists, if there is civil strife or disturbance in a certain place, enabling them to station punitive police, they have brought in this provision for the imposition of collective fines. I do not understand how it is necessary. Regarding control of processions and meetings, I think section 144 of the Criminal Procedure Code is sufficiently wide and I find there is a precedent in the orders recently issued by the local Government extending them in the Mannargudi taluk. When such is the case, what is the need to insert that provision in this Bill? They were in the Defence of India Rules which were meant to be used for a particular purpose when the country was at war. Why should they find a place in the ordinary law of the land? Here is a notification issued by the local Government with reference to Mannargudi, containing almost the same words. Then why should there be a similar provision in the Bill? Then there is the provision regarding the control of essential services. I was reading rule 81 (a) which has been enacted with slight amendments under the Defence of India Rules. It is there that essential services are controlled to the extent necessary by that rule; no strike can take place; no lock-out can take place without previous intimation or notice. All these things are there to see that there is no dislocation of essential services all of a sudden affecting the interests of the community. Regarding requisitioning of property, under section 4 of Act XIV of 1946, you have got these powers; that is again introduced into the Bill. I do not know why when laws already exist and when provisions in other enactments are at the disposal of the Government to meet any situation that may arise, why they should be brought under this enactment and be repeated? With reference to clause 13 under which, be he, a constable or a Sub-Inspector, can arrest any person whom he considers to be guilty of any of the provisions of the Bill, I would like to say it is a dangerous provision. It is all the more necessary why we should object against such a provision in the Bill, as it is a very dangerous provision. Under rule 128 of the Defence of India Rules too a similar rule existed but that was circumscribed by a provision that a Police officer could arrest a person only if he committed certain acts or violated certain rules mentioned in the rules. There was no *carte blanche* given to police officers of any grade, even a constable, to deal as he liked with any person without compunction.

[Sri R. Suryanarayana Rao] [6th March 1947]

6-20
p.m. " I have tried to make out that this measure is unnecessary. Let me close with a note of warning to those who are promoting this legislation. The powers with which you are investing the executive will very soon, sooner than later, be used against you. There is no use fretting and fuming as we all did in 1942. Sir, memories are short. A little introspection will convince the members on the Treasury Bench what dangerous weapons they are placing in the hands of the executive and they will be used when time comes even against them. Placed in power and clothed in authority, you may fail to realize the dangerous nature of the legislation you are sponsoring. Look at the Punjab. It was the Khizir Hayat Khan Tiwana Ministry that promulgated the ordinance. That Ministry became a care-taker Government and finally went out of office. I shall not be surprised if that very ordinance for the promulgation of which the Ministry is responsible is used against the very Ministers who were responsible for its promulgation. Let us be aware whither we are drifting and whether we are drifting in the wrong direction or in the right direction. Sir, I shall not take more time except to say regretfully that I am very pained that my hon. friends on the Treasury Bench should have thought it necessary and desirable to bring forward a piece of legislation of this kind. I am really sorry that the Hon. Minister for Law is a party to this bill. I expected him, more than any one else, having defended cases, in which civil liberties were involved, in the highest court of this Province, to put his foot down and tell this Government that that was not the method of dealing with the disease. But instead of that he has acquiesced in this bill. I know, when amendments are moved and speeches are made, he will stand up and support every section that is in the bill. I pity, Sir, that that has become the lot of my Hon. Friend, the Minister for Law."

* DR. V. K. JOHN :—" Sir, this House takes a very great responsibility in passing this Bill. This Bill is conclusive evidence of the fact that this Government has lost the confidence of the people. When they feel they have the responsibility but not the power, it is for them to follow the British method and quit and give way to another ministry who can command the confidence of the people. This Bill is in the nature of martial law, and in some respects worse than martial law, for the reason that in martial law there are courts constituted which will give some sort of trial to accused persons. In this Bill the Government want to exclude the jurisdiction of the courts altogether. This Bill deals with the liberties, lives and property of the people in a manner which is never known in any other democratic country. First it starts with the person. You can detain a person without trial. You can extern him and you can intern him. You can ask him to notify his movements. You can restrict the hours of his movements, his travel, his association, his communication and possession of any article by him. I wonder whether hon. Members of the House and the public have been able to read through this Bill very carefully. Then, Sir, this Bill provides for the execution of a bond

6th March 1947]

[Dr. V. K. John]

which can be forfeited. It provides for collective fines, control of processions and meetings, and it puts its hand on employers and employees also. Under the provisions dealing with essential services, it can put any restriction on the employer or the employee and a most irksome provision is a person cannot abandon employment although he may be molested or intimidated or assaulted. He must choose between the two devils—one intimidation or assault and the other going to jail for a year. Clause 8, explanation 1 says 'Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault by any person or class of persons shall not constitute a reasonable excuse within the meaning of clause (b).' Sir, this Bill does not leave the Press alone. Everybody thought that the Indian Press Emergency Powers Act was the limit. But this Bill goes still further. It gives three years to editors and it also seeks to confiscate the Press. While the Indian Press Emergency Powers Act, 1931, provides for an application to the High Court to be heard by three Judges, under the provisions of this Bill any order passed by the Government cannot be questioned at all. Then, Sir, it deals with movable properties. Government can take over any property and give any compensation they are pleased to the owners. The Bill provides also for search and seizure.

"One of the most objectionable provisions of this Bill is in clause 11, which says that a person who is asked to render assistance must give it; otherwise he will have to go to jail for a year. Then, Sir, there is the power to arrest without warrant and the delegation of powers down to a police constable. I ask, Sir, is there any more power, any greater power, that can be taken by the military into its hands when the military is in occupation of a country and proclaiming martial law? The jurisdiction of courts is excluded, and the Government are vested with power to decide whether or not an Act is prejudicial to the public safety or the maintenance of public orders. When a foreign Government was in power it passed many enactments for preserving order. Is not the existing law sufficient to deal with an emergency which the Prime Minister said the other day has arisen in this Province? To-day he has treated this House with scant courtesy. He did not say why this Bill was introduced in this House. Perhaps he wants us to read the reports appearing in papers and elsewhere. I should have expected the Prime Minister . . ."

MR. PRESIDENT:—"I thought the statement made by the Hon. the Prime Minister last time was enough. That is why I did not ask him to again state that."

* DR. V. K. JOHN:—"I should have expected him to state facts which necessitated him to ask for extraordinary powers for the executive. The Legislature of any country should keep the balance evenly between the executive and the judiciary."

MR. PRESIDENT:—"You must be thankful to him. You will have more time."

[6th March 1947]

* DR. V. K. JOHN :—“ I think that this Bill seems to have been conceived in a great panic. They want to pass this Bill in a great hurry. I do not see, Sir, the necessity . . . ”

SRI K. MADHAVA MENON :—“ If you go to Chirakkal taluk in Malabar, you will see the necessity.”

* DR. V. K. JOHN :—“ When such great powers are asked, why should it be hurried through? Why should you not give the representatives elected to this House the opportunity to express what they feel about this Bill, whatever may be the final outcome of the Bill? There should not be any hurry in dealing with this Bill because this is a Bill which has gone beyond everything else. It is like a rocket that has been fired into the sky, and it covers every man, woman and child in this Presidency. I ask, whether the ordinary law, such as the Indian Penal Code, Criminal Procedure Code, Press Emergency Powers Act, the Police Act and the other various Acts that have been enforced by a foreign Government to keep order, is not sufficient to deal with the emergency that has arisen? And what is the emergency for this legislation? He said that a few persons calling themselves Communists have used violence and that the Executive wants these powers. I said, it is the duty of the Legislature to keep the balance between the Executive and Judiciary. Is this Bill intended to safeguard the liberty of the subject? If so, I ask, what is the reason for excluding the jurisdiction of the court of law? Why should not the court of law go into the propriety or otherwise of the order issued by the Executive. Why can't the Government satisfy the court of law about the orders they issue? Why should they so much distrust the court of law? The previous speaker asked why they are not utilizing the provisions of the existing law? The answer is, the existing law provides that the matter might be taken to a court of law; but the Premier and his colleagues do not want that, because they anticipate, and rightly so from their point of view, that the courts of law would not tolerate *mala fide* exercise of powers vested in the Government. I ask, when once you have arrested a person, when you have placed him behind iron bars, why not allow him to be brought before a regular court of law? Sir, I think this House and the other House owe a duty to their electorate to oppose this measure.

“ Sir, there is one other objectionable aspect to this Bill. This Bill is apparently intended against a political party in opposition to the Government. Every political party in opposition to the Government, whether Communists, Socialists or anybody else should be dealt with respectfully and not in a Draconian style. Government, I find here, in their discretion, can pass any order without assigning any reason why they pass such an order. Then, Sir, I find that an advisory body is to be set up consisting of three persons. They are to be appointed by Government and not by the Chief Justice or by the High Court. This advisory body is purely advisory in character, as its conclusions need not be accepted by Government.

6th March 1947]

[Dr. V. K. John]

" Sir, this is a bad piece of legislation. It is being introduced without caring for the security or the liberty of the person and property of the citizen. Instead of introducing this Bill the Government should have probed into the causes of the present unrest. Cannot they very easily see that the main cause for all this disturbance of peace and tranquillity in the Province is unemployment. This Government has not taken any trouble to find out how many are unemployed in this Province. The second reason is underpaid employment. Has this Government dealt with underpaid employment? The only way to deal with that is to encourage industry. Instead of encouraging industry, this Government is trying to suppress all industries, particularly textile industry, which provides employment to a very large number of people. And the third reason is dearth of consumer goods. The Government should attend to the industrialization and production. I say this Government has brought this measure in panic. Government feel, and I think they feel rightly, that they have lost the confidence of the people of this Province. Instead of resigning and giving place to others who have the confidence of the people they have resorted to this Draconian law without any reason whatsoever. I submit this House will take a very great responsibility in passing this Bill."

K. UPPI SAHIB BAHADUR :—" Mr. President, Sir, I do not wish to detain the House long. I expected a statement from the Premier when he moved the motion stating the immediate necessity for this measure. But he in a laconic way . . ."

SRI K. MADHAVA MENON :—" The incidents in your own taluk are patent."

K. UPPI SAHIB BAHADUR :—" I am coming to that. You and I hail from the same place. But the Premier simply moved the motion and sat down. I thought ' why not I stand up and say, " I oppose the motion " and sit down '." (Laughter.)

MR. PRESIDENT :—" I have no objection." (Laughter.)

K. UPPI SAHIB BAHADUR :—" You will be mightily glad if I did that. As I mentioned just now . . ."

MR. PRESIDENT :—" From what he had already told us the other day, I thought he has covered the ground more than once, and so I thought we might take that time to discuss the matter. So, you may go on with your observations."

* K. UPPI SAHIB BAHADUR :—" I cannot condone the Premier. He was not long ago crying hoarse at such measures introduced by the previous Government. A gentleman who had been crying hoarse, who had been crying from house tops, who had suffered so much throughout his life for the liberty of person and property of all sorts of persons for such a man to sponsor such a Bill is indeed an irony of fate. Have the circumstances of this Province come to such a situation? I do not for a moment believe that things have come to such a state as my Friend from Malabar was asking me, ' what about Malabar? ' I ask, ' what is the area, how many miles and how many villages are affected? ' ' Can't you control that with ordinary law? Have you not the machinery

[K. Uppi Sahib Bahadur] [6th March 1947]

for that? Are not the existing laws sufficient to prevent that or to put a stop to that? You have all sorts of agencies to put a stop to them.

6-40
p.m.

"Instead of that you are now forging a machinery, a gigantic engine to crush freedom throughout the Presidency. You are asking us to declare a sort of martial law throughout the Presidency for one year and if necessary for two years. Under the Act which you are asking us to forge, what will be our position and also yours, Mr. President? The sword of Democles will be hanging over our heads for one or two years. Mr. President, I warn you, you too will not be free from the force of some individual police officer. As was so nicely, so eloquently and so reasonably put before us to-day by Mr. Suryanarayana Rao . . ."

MR. PRESIDENT :—"I have no hand in the shaping of the Bill or the passing of it."

* K. UPPI SAHIB BAHADUR :—"Sir, there are so many millions of people who have no hand in it but to whom this Act will be applicable. It may be, Sir, to-day you are there. But we do not know what will be the state of affairs to-morrow or a year hence. Perhaps you will come down from that chair and will be coming under this Act; so also, Sir, I too will not be away from this Act. A year after we forge this Act . . ."

MR. PRESIDENT :—"I wish to impress upon the hon. member that if he is trying to catch my vote, I have none."

* K. UPPI SAHIB BAHADUR :—"Sir, as I said, if we pass this Act to-day we, all of us, will be at the mercy of some petty police officials. What will be our remedy to save ourselves from such men? Nothing, entirely nothing. The Government will have his report and arrest anybody and keep him. What is his remedy? The Government will constitute a council of their own choice. They are reluctant even to constitute a committee composed of experienced judges or men of judicial experience. They will compose a council of three or more persons of their own choice and that council will go into the papers which the Government may be pleased to put before them. The man who is affected has no remedy, he cannot plead, he cannot engage a lawyer. That is the position to which we are going to be reduced ourselves. I do not think that even the British Government has ever enacted such a legislation. Perhaps my hon. Friends may compare this with some of the provisions of the Defence of India Rules. Sir, they were made in an emergent time. It was a time when the empire was at war, a dangerous war. But are we having a war now? There may be internal political quarrels. 'The Communist party are doing havoc' it was said by the Hon. the Premier."

SRI K. MADHAVA MENON :—"Don't you know that?"

* K. UPPI SAHIB BAHADUR :—"What is the Communist party doing, Sir. Let me tell you what they are doing. In Malabar they are encroaching upon the lands of certain landlords, they are trying to cultivate it. In certain areas they sometimes carry

6th March 1947]

[K. Uppi Sahib Bahadur]

away the crop that has been raised by jenmis and there was a tussie, there was quarrel between the landlord and some Communists. They were trying to encroach upon the rights of others. I ask, Sir, how were the present Congress Government acting before? The Communists also are taking the law into their own hands as the Congressmen did. On account of the present Government and the Acts which they have enacted and are proposing to enact, the landlord is uneasy, the middle class are becoming uncomfortable and life is becoming uncomfortable to the poor. You are going to wipe out the zamindari system and the zamindars are trembling. As soon as they came into power, what did the Government do in Malabar? One fine morning we were asked to enact a law in this House preventing the landlord from collecting whatever arrears were due to him from the tenants. He has no remedy. All cases pending in Courts have been kept in abeyance under an injunction order. No arrears of rent can be collected except for two years. If a recalcitrant tenant behaves badly and refuses to pay the rent the landlord has no remedy to recover the rent. Then take the position of the millowners. Day after day they are also becoming nervous. Then take the merchants. At least in Malabar all the wholesale grain merchants have been wiped out. Then in the villages also the retailers who were living on their petty business throughout their life have been wiped out. One fine morning they have been sent away from their businesses. Then what about the poor people. Here is the Act itself. Nobody knows when the Act comes into operation what will happen to him. So everybody is in a very very uneasy position. Sir, we are asked to subscribe to and endorse such an Act, such a shackle which will be on our own hands at a not great distance of time. On these principles, Sir, I oppose the Bill."

* RAO BAHADUR SRI D. KRISHNAMURTHI :—“ Mr. President, Sir, it is very unfortunate that this Bill should be sponsored by a Government which calls itself national and popular. The 19 clauses of this Bill deprive completely the civil liberties of subjects. Not content with that, sub-clause (2) of clause 1 extends the scope of the Bill to the whole of the Province of Madras, but not to particular areas where a real emergency arises. I could have understood a moderate measure, restricted to specific areas under extraordinary conditions so that the Government responsible for the maintenance of law and order could devote themselves to it and put down any disobedience of law and order by means of the measure. On the other hand, by passing a legislation of this type and extending it to the whole of the Province, the liberty of the subject, the liberty of movement, liberty of association, liberty of speech and even personal liberties are sought to be dispensed with and place us under the tender mercies of the Government. The Hon. the Prime Minister the other day when he was mentioning the necessity for the Ordinance painted a very lurid picture of the activities of a section of the community, namely, a section of the citizens called the Communists. Sir, I am not a Communist, nor am I here to defend their ideology, their programmes or policies. I as a citizen along with other members

[Sri D. Krishnamurthi]

[6th March 1947]

of society feel keenly on this subject, namely, that the Communists are also human beings and they have got their own ideologies and they have got their own programmes. Let us consider by way of contrast what was the Congress doing when the bureaucracy was ruling this country. They were adopting the same tactics, the same methods of hartals and processions, of public meetings, of discussions and even of civil disobedience at various places in order to bring into force the programmes and policies which they believed to be necessary in the best interests of the country. Communism is a thing which has started in other parts of the world and is more or less the order of the day. They seek to introduce some radical rule with regard to the ownership of property, regulation of labour, etc., and with a view to convert the majority to their views on certain policies and programmes. Wherever they are found to be in conflict with the legitimate maintenance of law and order, then it may be quite necessary and proper to put down and maintain law and order in the best way possible. May I respectfully ask the Hon. the Prime Minister: "Does he find the ordinary law of the land as it exists to-day is inadequate to deal with the situation? What is it that has happened before the Ordinance was promulgated? In how many places was there bloodshed and murder? Even under Martial law the provisions of the 19 clauses of this Bill are not resorted to *en masse* and entire. Sir, it is an unfortunate view to take that by passing this legislation you will be able to put down the Communist movement. It may be, Sir, that five years hence, the members representing this particular school of thought advocating Communism to-day may be sitting on the Treasury Bench. I am not able to understand the emergency and the absolute necessity of making both the prosecutor and the judge combine in the executive and set at naught once and for all the fundamental principles of administration of justice legitimately due to an accused person. In any civilised country the accused should be given the absolute privilege of challenging the charges against him and making his position clear by producing evidence and inviting judgment on the facts presented by him. Even the worst murderer is given the privilege of challenging the charges against him. Murder is generally considered to be a very heinous crime involving moral turpitude but even the murderer is given the elementary right and some privileges under the common law. But, Sir, these privileges are denied to a particular section of political thought. Whatever be their ideals which they seek to achieve, they are all intended to better the society in which they are living. They say that every human being has got an equal right to enjoy the produce of the land. They, the Communists, challenge the system of distribution of things obtaining to-day. Whether their ideals are high or not, it is their method which is sought to be attacked. Attack it by all means whenever civil liberty is endangered. But I submit that a Bill of this type is a very highly retrograde and revolutionary measure. It is a bare-faced affront to civil liberty and ought not to be passed by a Government claiming to be national and popular. I know that this is a party measure brought forward in the confidence that the party has a

6th March 1947]

[Sri D. Krishnamurthi]

majority in this House. But I warn you that as it has always been the case and also in the case of similar measures which preceded this—the Rowlatt Act, the Defence of India Act and so on—a day will come when the present legislators who have sponsored this piece of legislation will be held up to ridicule and will be considered as having done the greatest piece of disservice to the cause of civilization and civil liberty and the cause of humanity. Sir, you cannot stem the rising tide of Communism. It is a movement based on certain fundamental principles regarding ownership of property and the best way of providing food, cloth and shelter to every human being who has got an inherent right for these things the moment he is born in our land. Therefore, Sir, all attempts to stifle legitimate ventilation of grievances and seeking remedies for the redress of wrongs, by force of legislative authority are bound to fail as they have failed before in this country. The history of the Congress movement is a glaring instance of that truth. The Congress fought for liberty—freedom of expression and freedom of association—and they won it. Now another section of our countrymen are going a step further in their programmes and policies. Why should you object to this? Have legislation of this kind by all means, but let it be reasonable and fair and give opportunities to those who have been prosecuted to be tried in a Court of law before an independent judicial tribunal and let the tribunal pronounce its opinion whether the man is guilty or not. Sir, it should not be left to the sweet will and pleasure of a Government to punish those people who are against their views, and punish them in this Draconian fashion without giving them a right of appeal.

“Therefore, Sir, I oppose this Bill entirely. This is a comprehensive Bill aiming at the fundamental liberties of the citizens and it should therefore be opposed completely. I am sure the Hon. the Prime Minister himself would one day think that he has passed an enactment which is absolutely unnecessary and which is a slur on the fair name of the Congress movement itself. Sir, I oppose the Bill.”

SRI B. NARAYANASWAMI NAYUDU :—“Mr. President. Sir, I wish to make a few observations on this Bill which raises very vast and fundamental questions. I really doubt whether this Bill has at all been discussed fully in the party or anywhere else in order to know its full implications. First of all, I would ask: ‘Is this the Atlantic Charter of the Congress?’ Did President Roosevelt fight this war in order to enable the Congress to bring forward a Bill like this? What are the four freedoms that he enunciated and that he fought for and what are the tyrannies which are sought to be incorporated in this Bill?”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“It has been said that the Atlantic Charter does not apply to Asiatic nations.”

SRI B. NARAYANASWAMI NAYUDU :—“Mr. Churchill said that Atlantic Charter did not apply to India and the Government here are following in his footsteps by saying that the Charter

[Sri B. Narayanaswami Nayudu] [6th March 1947]

should not apply to the Madras Presidency. There is one fundamental question with regard to this Bill. I do not want to be carried away by any ideas of my own, but let us look at the matter squarely and say whether it is an honest and necessary legislation or whether it is a panicky legislation or party legislation. What is there that appeals to us to give our assent to this Bill. The important provisions are three in number. The first and the most important is clause 2, which says:

'2. (1) The Provincial Government, if satisfied with respect to any particular person that he is acting or about to act in any manner prejudicial to the public safety or the maintenance of public order . . .'

The question is: What is public safety? It has not been defined. By passing this Act, what is it that the Government can do? The Provincial Government may make an order directing that the person be detained. The other things are subordinate to this provision. But the main question is this. The fundamental principle of every state which pretends to the title of a democratic state is that no man should be detained without a charge being framed against him and a conviction obtained therefor.

7 p.m. "That is a fundamental principle from the time of the Magna Carta. That is a principle which we have been asking the Government to maintain. You tell me I have done so and so. Arraign me before a court of law. Let me be tried by my peers. That is the spirit of the English constitution. But in India, as the law is administered, that part of the liberty of the subject that he should be condemned by his own countrymen has been taken away. The other part of it that he should be condemned by a court of law according to the rules of evidence remains. Then only you should be sent to prison or detained. That is the first principle. Every man has got the right to say anything and do anything, provided, of course, he does not offend the law. He must be charged, arraigned before a court of law and convicted by the court. Then only he can be taken to the prison. That is what is meant by individual liberty. The liberty of the subject is that he shall not be taken away and put into prison just as Charles I and the despotic kings did. 'Take that man and put him in prison' is the law of the tyrant. But the law of a free constitution must be to give the subject an opportunity to say before the court how he is not guilty, and only after conviction, he should be put in prison. This right is an elementary right. It is the foundation of all democratic governments. It cannot be interfered with. The only reason for interfering with it, so far as I know, is that the injury to the State warrants it. Where the safety of the realm and the safety of the country are involved, then you can take away that liberty. When war broke out in 1914 and 1939, defence regulations were enacted in England. The first question was against whom should be applied the right of detention. It should be applied only to alien enemies. There were in England hostile associations of alien people from Germany and other countries. There was in England also a body called the British Association of Fascists led by Oswald Mosley. They had their own drill and all those things. They did

6th March 1947] [Sri B. Narayanaswami Nayudu]

not apply this law to intern them. It was only after the evacuation of Dunkirk that they passed a law applicable to the enemies of the State within the country and said : 'We can also intern persons of the home country without giving reasons.' The reason is not far to seek. When a foreign enemy is at your gates, you cannot go and say : Sir Oswald Mosley is giving help to the enemies in such and such a manner. If you put it before a court, you must give evidence. You will have to say : Oswald Mosley or the British Association of Fascists have communicated to Germany or other enemy countries such and such information. That information cannot be disclosed. Therefore, the necessary consequence was that in order to defend that Realm and the safety of the country, they had to seek the aid of law for putting these persons in prison without adducing evidence. But here, are we at war with any nation? What is the nation with which we are at war? How is the safety of the Madras Presidency threatened? Is the information through evidence that can be placed before a court of law of such a nature that it will be advantageous to the enemy? I challenge the Minister for Law, who knows everything, whether there had been British legislation on what may be called the suspension of the rule of individual liberty, the right to detain a person except on the occasion of war, and that too only when the enemy is at the gates and the security of the realm is involved. What will happen if you place the evidence before the Court? Therefore my first submission to you is that this is not at all warranted. If it is contended that it is aimed only at the Communists, then I say : It is a doubtful political bargain. It is a political drive against a section of the people which you have no right to make at all. You can take powers for the purpose of defeating a foreign enemy, but you cannot take powers for the purpose of putting down those who may be called your political rivals. Suppose I say, for instance, that the Brahmans of this country are the Jews of India and that they must be exterminated, will it be proper on your part to put them in jail, because I have made such a statement? The Communists also have a right to say that the mill men should not prosper at all and that we should pull down all the mills. Are you going to say 'they are wrong' and put them in jails? Why should you not disclose the information to the courts? Who is the enemy against you? Is the safety of your country threatened by Japan or China necessitating the curtailment of individual liberty? How will this disclosure imperil you in the prosecution of your object? Therefore my submission to you is this. This is not at all warranted. This is merely adopting what may be called Fascist methods in order to suppress all parties in the country. I know the Government do not hope to succeed. But they are determined to do it. I appeal to them : It is not right; don't do it.

" Then there is another obnoxious section and I would even say a pestilential section relating to the press. A free press is a fundamental need of every constitution. Section 9 says : The Provincial Government may, for the purpose of securing the public safety or the maintenance of public order, by order addressed to a

[Sri B. Narayanaswami Nayudu] [6th March 1947]

printer, publisher or editor, or to printers, publishers or editors generally require that all matter, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order. Sir, I ask the Hon. Minister for Law or whoever has drafted this Bill: Does he know the law with regard to the publication of newspapers in England? Till the Long Parliament was there, the practice was that nobody could publish anything unless he got the consent of an authority. That was the practice in 1644. The Long Parliament had that ordinance. Then Milton wrote his famous pamphlet. Milton wrote in season and out of season: You cannot ask a man to submit to you whatever he wants to publish. In 1679 the Licensing Act was repealed. Afterwards, there has not been a single instance in England where they said: You must go and take authority from some person to publish any matter you like. So much as regards the liberty of the press. The liberty has been established in 1640. That liberty to print without permission, you want to take away. On what grounds? Is there a menace to the public safety or the safety of the realm? In 1914, the British Government first of all said by an Act that they could prosecute such offenders, but later on they said that they had got the power to close down the paper.

“People in England are accustomed to censorship sometimes. Editors of papers had to be told what is censored and what is not. A curious illustration of this occurred. A newspaper published the news in 1914 that Lord Kitchener had died; that was altogether false. It would have a very serious effect on the morale of the army, who were fighting in the front. If he died, people would lose heart and they would lose the war. The Government intimated to the paper that it was wrong to publish the news. It published it once, twice and thrice; thereupon it was suppressed. You can understand why that was done. It was because there was war going on. The Government said, ‘No, you should not publish it.’

“For instance regarding the controversy about resignations a paper published that the Hon. Premier had received a communication from the High Command asking him to resign. It is contradicted in the papers to-day. Under this Bill the Hon. Prime Minister can send a communication to the paper ‘don’t’ publish any correspondence or any matter regarding the ministerial squabbles. Is it a case of the safety of the realm? Is war going on? Is fighting going on?

“Do you want to have these powers? To whom are these powers going to be given? To the executive and to officers subordinate to the Government. I do not want to take up the time of the House. My submission to you is you must understand this fundamental matter.

“A curious thing, Sir, it is stated in the Bill ‘saving His Majesty’. Where does the question of saving His Majesty arise in the case of the Provincial Government? It is copied from the British Acts. It is not at all correct.

6th March 1947] [Sri B. Narayanaswami Nayudu]

" Mr. Narayana Menon coming from Malabar said that the matter was very urgent and that legislation of this type was absolutely necessary. He tells us that no man is safe, no man's head is safe. He is a lawyer himself. My answer to him is this; if a certain man is interned, is it going to save people's lives? Is it not merely securing an advantage for the party? Mr. Narayana Rao has been interned. Is there peace in the district now? What is it? Ordinary law is there; the Police is there; the military is there. It is these things that are going to keep you there safe and not putting 2 or 3 men in jail unless you want to repress them. Suppose you put 2 or 3 persons in jail and detain them how will you save the situation? It is not meeting the situation at all. Don't encroach upon the freedom of the press or the liberty of the press in your interest.

" After all, my hon. Friend, the Prime Minister had his experience in Ellore in 1931. There was the owner of a printing press; he happened to own it. Mr. Prakasam went to Ellore. Then there was a movement. He was attending to some work in the printing press. Following him three other persons came. A fifth man was invited to dinner. Dinner was going on. It was declared an unlawful assembly. The printing press was seized and the papers were seized. The printing press was sold for Rs. 100. Being a lawyer, my hon. Friend lodged his complaint. This is the unfortunate record with regard to such laws. Are you going to repeat what may be called Hitler methods in order to perpetrate Congressraj in this Province or are you going to tolerate other parties in the Presidency? Are you going to allow what may be called political honesty to have its legitimate course? "

* SRI K. NATARAJAN :—" Sir, I thought that it might not require much of a speech on my part in support of this measure especially when all the circumstances have been definitely set out by the Hon. Premier in both his statements in the Legislative Assembly and in the Council here. As regards the foundation for this measure I do not think I can add anything more than what he has said in detail when he catalogued all incidents coming from West Godavari, from Ramnad, from Madura, Trichinopoly, Karur and from Tanjore. Although I am a lawyer with a great instinct for the liberty of the citizen, I feel preventing certain acts must be distinguished from pursuing remedies in criminal courts after the offences are committed. In Tanjore we have seen these things; (1) there were one or two murders; (2) taking away of paddy; (3) refusing to do duties; (4) interfering with other labourers coming to help the mirasdars. There were shouting of slogans also. What is it that they aimed at? They enunciated the principle that if a mirasdar owned more than 50 acres of wet land, the rest of his property above 50 acres will be the property of the State and any person who occupies it will be the owner of the property. I am repeating in substance the terms of a Bill which was attempted to be introduced in the Legislative Assembly by one of the distinguished members of the Communist Party. Three Hon. Ministers came to the locality to set things right. The Collector passed the

[Sri K. Natarajan]

[6th March 1947]

arbitration proceedings increasing the wages by a certain percentage. When all these things have taken place and when the District Judge had passed his award, still paddy was taken away in Konerirajapuram. Procurement authorities were not able to procure paddy. Similar things happened in Mannargudi and other places . . ."

K. UPPI SAHIB BAHADUR :—" You want to impose martial law throughout the Presidency."

* SRI K. NATARAJAN :—" What I am stressing is that prevention of offences is better than pursuing the process of law after offences are committed. Many of my hon. Friends know that persons who committed serious offences are not punished for want of evidence. Very often, murders are taking place but nobody is charged for want of evidence. There is no use pursuing the cases in courts after the offences have been committed. My hon. Friends say from the papers that things have very much improved. But for the ordinance, mirasdars could not have procured paddy for their own purposes.

" I do not want to refer to everything that has appeared in the papers. From 1946 August, members of the Constituent Assembly, of the Madras Legislative Assembly and Council, mirasdars and all people high and low have been sending memorials and waiting on deputations on Hon. Ministers. I myself waited on deputation 2 or 3 times. Members of the Assembly are sending petitions to the Collector. I implored the Hon. Ministers to intervene in the matter. Some of my hon. Friends here say that the criminal courts can decide such cases. They are enunciating principles of law, principles of liberty, equality and fraternity. I ask them to go to these places and find out what is happening, how the mirasdars are faring in the proceedings in courts.

7-20
p.m.

" Sir, I do say that if they look at this Bill from this point of view, I am sure they will realise that this is a good measure for the purpose of ensuring peace and putting a check on the bad elements in society.

" Then, Sir, what are the changes which are introduced in the Bill? The changes are worth noting. Provision has been made for Advisory Councils. There was no such provision in the Ordinance. Then, after all, any order against any person who comes under the provisions of this Bill will be in force only for six months and moreover this Bill will be in operation only for one year. By that time, the harvest season will also be over.

" Sir, it may be that there are certain ideologies. Ideologies may be good or bad. It all depends upon how the majority of the people look at them and how they will affect them. But when these ideologies are put into the heads of people who are not able to understand their implications, there comes the trouble. People are being told, " The property is yours; the lands are yours; you need not pay any rent to anybody; it is enough if you pay about 25 per cent of the produce to the mirasdar; the mirasdar has no right whatever in the land " and so on. Sir, such propaganda directly affects the community and tends to create conflicts between

6th March 1947]

[Sri K. Natarajan]

the mirasdars and the cultivators. These ideologists interfere with the rights of individuals and with the peace among the people. Therefore, Sir, I think it is better to have a preventive measure like this, to check such propaganda. This is not, as one hon. Member put it, a case of war. I would call it anarchy. Is not anarchy worse than war? When there is anarchy, the Government must interfere. Sir, one hon. Member was pleased to call it as a Noakhali repeated here. To some extent, if things had been allowed, it might have been possible that a miniature Noakhali would have been repeated here also. A Government will not be called a Government if it cannot maintain law and order. The persons who have now gone underground were freely propagating anarchy and disruption of society. It was but right that their activities were restrained and but for this, the position would have worsened. We see that after the Ordinance and after these people have been outlawed for the time being, things are gradually getting to normality and there is apparent peace on the surface.

“ It was stated that this Bill interferes with individual rights and liberties and that the Government should not trespass upon them; and that, if necessary, the Government should bring the individual offender to book. If that is the only remedy that they could suggest, then I beg to differ from them. Sir, these offences are committed not by one or two individuals, but by thousands of people belonging to a separate group and it is impossible to deal with such people individually. This Bill proposes to put an end to all the troubles. I do not want to add more. I would only request hon. Members of the Opposition and members on this side of the House to unanimously vote for this Bill. But I know it is an extravagant claim I am making of them, especially after so many eminent members have spoken against it. Sir, there is a saying in Tamil: ‘தலைவலியும் காய்ச்சலும் தனக்கு வந்தால்தான் தெரியும்.’ It is only the people who are actually affected that can understand the gravity of the mischief. Go to Tanjore, go to Trichinopoly, go to Malabar, to Guntur, to Karur and to any of the places where there had been this trouble, then you can realize the seriousness of the situation. Can you allow such things to go on? Should you not prevent it? If this is not the procedure that should be adopted by a responsible Government, then I ask what other methods can you suggest to quell this wholesale rebellion? After having had the bitter experience of Tanjore, I cannot think of any other way of dealing with it. Perhaps I may not be well balanced in my expressions, or my arguments in support of the Bill. It may not be so appealing after so many eminent gentlemen have spoken against it, but I only want them to realize the gravity of the situation and look at the Bill from that aspect. In normal times, it is all right that the liberties of individuals should not be interfered with, and people should not be punished without being given an opportunity to defend. But under present conditions, should not restrain these underground activities? Is it not the duty of the Government to prevent such lawless acts? That is all I want to say in support of this Bill.”

[6th March 1947]

* MRS. MONA HENSMAN :—“ Mr. President, Sir, after the eminent speeches and eloquent arguments that have been put forward on this side of the House and on the other side, I do not want to keep you too long. Sir, truth is nevertheless truth, howevermuch it is repeated or contradicted. But I do feel that this Bill has got a few points that might be emphasized still further with great effect. We have got before us a Bill that has got much thought put into it and I feel sure that the aims and the ideals that it propounds do credit to and go far to create the confidence that has been placed in the Ministers sitting on the Treasury Benches. Nevertheless, there are a few points in it which might be remedied. For instance, Sir, the action is so swift. The first clause gives the authority and the reasons for the measure and immediately the Bill gallops at breakneck speed right on to the end. I would detach two or three principles from it and that is all I want to bring before you. Much has been debated in this House about clause 3 and little remains to be said, except that in this clause no provision is made for the gentleman,—it does not say, ladies,—(laughter),—who is apprehended, to make an appeal against the order of the Government. The gentleman who is apprehended should have peace of mind and I feel that while there are various other means and methods provided in other similar Acts, for a right of appeal, no such provision has been made in this clause. He has no chance or a choice to appeal against the Government Order and that is the thing that is missing here.

“ As regards clause 11, it will be remembered that on January 31, we were electrified in this House by the revelations that were made. We were asking questions why these things had not been brought to our notice before and why newspapers had not published such acts, and why the knowledge of such disorders and unrest had been kept away from the people. Well, Sir, it seems to me that if section 11 goes through now, the people and the country will be kept in even darker and in greater ignorance than we were in January 31st. While we appreciate the fact that certain sections of the Press withheld publication of certain things which would have otherwise spread panic in the country, nevertheless the same feeling of panic is bound to be spread when the curtain is withdrawn and when the house is electrified, as I said before, by the earthquake of what has happened elsewhere. We, Sir, are citizens who can follow and can discriminate between news and news and we can discount a certain amount of fear that appears in the newspapers. We are expected to have a certain amount of commonsense and conscience in our reading of what is reported in the Press. It is likely, Sir, that as a House and as a Nation, we should not be troubled by too many reports from the Press and from people and we should not get perturbed, and I submit that it is time that the censorship of the Press goes. However, we know that the Bill and this clause will go through and I wish all success to the Government in this. But will these powers be exercised with great discrimination? I think these powers should be held back rather than used, and this matter, and this can be brought about if the newspapers alone should have the fullest freedom of expression.

6th March 1947]

[Mrs. Mona Hensman]

“ With regard to molestation of private citizens, clause 8 has already been mentioned, but I will go no further except to say that if the situation is very bad and if a person wishes to stay at home simply for fear of being molested, his absence should not constitute an offence and he should be guarded against any such contingency.

“ Then, Sir, in clause 11 dealing with powers requiring the assistance of certain persons and here I may mention it is laid down that the people who have to give information should be males; I am glad there is no mention of women or of animal in that clause or in the sub-clause, can woman be meant” 7-30 p.m.

DR. V. K. JOHN :—“ According to the law, man embraces woman, Sir.”

* MRS. MONA HENSMAN :—“ I bow to the hon. Member for his legal capacity for including the greater in the less or the less in the greater, but women though they are called men's better-halves cannot be called males and the clause definitely signifies that. Now, Sir, the point is whether in this clause you might not also be providing for espionage because man and woman who are a part of a family or in domestic service might be set to collect information by spying and this Bill might creep also into domestic circles, family circles and other social circles. I also feel that grave discrimination should be made in this matter. People who are approached to give information should not be asked to do it as a national service. That is the worst clause in the Bill expecting the worst from people, and the best is missing. This Bill is framed to give an opportunity to the worst elements, not the best. I leave it at that.

“ The hon. Member, Dr. John, mentioned that this unrest is all due to the economic problem that is facing the country to-day. Very often we have to modify or amend a Bill, to give some real work to these elements. It may be that these elements who are seeking justice of a certain kind and of their own persuasion may also be employed by the Government in very constructive work instead of setting them out to destroy the country and the nation. I have closely examined the Bill and I think that anything can be ordained under clause 16 of this Bill. Do we hope that anything that causes any danger to property or to the Provincial Government or to a person or officer-in-charge or anybody designated by the Government to carry out the full purpose and intention of this Bill, will be covered by this measure? I think anything can be called an honest purpose. The purpose and the intention may be honest and anything may be honest but the damage should be made good. We hope this clause will give aid in such cases; we know this Government will aim at making it so and we trust that the Bill will aim only at the objects for which it was framed.

“ Surely, Sir, those who have spoken on the 31st of January and after and particularly the hon. Member on the other side, stuck a genuine note of warning. In my opinion this whole Bill will, if rigorously applied, keep the country in greater ignorance than in January 1947. There is no use in forging a weapon against

[Mrs. Mona Hensman]

[6th March 1947]

one's self and there are boomerangs in this world. So, I will ask hon. the Members of the Treasury Bench to use this Bill if and when it is passed simply to suit their purpose for the time being and not let it dominate them and the nation as a whole."

SRI K. MADHAVA MENON :—" Mr. President, Sir, having undergone the miseries of detention for over four years, for a year in 1940 and for three years from 1942, it goes against my grain to support a Bill which contains all the provisions under which I myself have suffered. Though I cannot agree with some of the drastic provisions of this Bill, I am speaking only for the purpose of showing the necessity and the urgency of the matter. Hon. Members on the other side were asking, 'could not the ordinary law be put into force and where is the reason for this extraordinary legislation?' Sir, if only those hon. Friends have occasion even now to go to North Malabar, they would come back to the present Government and ask them to take powers to do something to relieve the sufferings of the people. Hon. Members, Mr. Suryanarayana Rao and Dr. John, were saying that we are encroaching upon the civil liberties of the people. Are we not entitled to civil liberties in those areas? That is what I ask. In those areas, Sir, there are practically no civil liberties. If only I can correctly picture some of the incidents that are taking place, you will not oppose this Bill, very bad though some of its clauses are.

"Sir, a landlord was taking away his paddy with due licence from the authorities concerned; the bandyman was stopped by certain people calling themselves Communists or people led by Communists. Though the landlord showed the permit for taking his paddy, they said, no, this paddy belongs to this village and it must be distributed here and you will not be allowed to take it out. The cartman resisted; actual fight took place; the Police came and there was a regular battle with the Police. Would you like men to be shot down by the Police in such fights or would you prevent such judicial murders?

"Sir, in another area, where the unrest is very bad, in a firka called Irukkulam in North Malabar, there was no Government for some time. Any person who possesses some paddy and any landlord who has got an acre of land were being attacked night and day and particularly during nights. Every village has its own quota of goondas who have become conveniently Communists. I heard a dissertation from one of my hon. Friends about Communism. Communism as such may be all right; but it is not that Communism that is being practised by them there. These goondas sitting in Calicut and Cannanore attack persons and property. It is unimaginable. Even the Prime Minister actually went there and there were volumes of evidence that these goondas are doing tremendous havoc. These goondas attack every person with some paddy at night and in the morning they disappear and they go high in the hills and no trace of them is possible. Instances are there that if any person dared to go and give any information to the Police, that person's head will not be seen the next day. Many, many murders have been committed."

6th March 1947]

K. UPPI SAHIB BAHADUR :—“ May I ask how many have lost their heads in these areas? ”

* SRI K. MADHAVA MENON :—“ Many, I am sorry that my hon. Friend, coming as he does from the very place, is putting that question. These goondas have not taken it into their heads to attack Muslim landlords there. I do not know why; I do not want to say but it is a fact that it is the non-Muslim landlords who are suffering there. Even two weeks ago, I read in the newspapers that a particular farmer gave information to the Police and the man was dead the next day. Sir, women returning from the factories in Cannanore were stripped naked in the streets. Unless somebody else gives them a piece of cloth, they have to walk naked to their homes. This is a common occurrence in Cannanore and places near about before the Ordinance was promulgated. I went to these areas, saw things for myself, went to the District Magistrate and the authorities concerned and asked them to post some more Malabar Special Police there, but this is not sufficient, Sir, to cure the trouble. There are certain goondas in every district and these goondas are being instigated. Unless you remove these goondas or check them, there will be no civil liberty for anybody in that area. The District Magistrate told me, well, Sir, give me the powers; under the existing law, I cannot do anything; under the Evidence Act, I cannot get any evidence though various offences are being committed every day. So, he said that it was not possible to act under the ordinary law. I asked him to have recourse to the Criminal Law Amendment Act. He said that also would not serve to do justice in the matter. So, Sir, I came back to Madras and told the Hon. the Prime Minister that unless powers are given to the district authorities to deal with the matter, there will be no civil liberty worth the name.

“ Sir, it is easy to talk of civil liberty here, but if you go and live in those places—some of us are living there because we did not care for our lives for what they are worth, but it is not the case with the ordinary people in those areas—if you go and live in those places, then only you will realise how civil liberty is being practised there.

“ Sir, I wish this Act had been restricted to certain areas. Since there is no war at present, some of the provisions seem drastic. But, as some action which cannot be taken under the ordinary law of the land is necessary, those provisions have to be put into force.

“ It is for these reasons that the Ordinance was promulgated. Perhaps, in the Bill, as it is some of the provisions, such as the requisitioning of property, need not be there. But the fact is it has to be passed before the 12th instant. As soon as the necessity for this legislation is over, I hope proper amendments will be brought forward to bring it in conformity with the requirements of the situation and to maintain the civil liberties of the people. I only wanted to impress you, Sir, that there is at present absolute necessity for this Act, since the Ordinance will expire on the 12th instant.”

[6th March 1947]

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Mr. President, Sir, we have to cry hoarse, as it has always been our fate in protesting against a lawless law of this nature. I call this, Sir, a lawless law because this term was often used by the Congress leaders when such laws were enacted by the British Government. The question arises, what is it that has not come under the purview of this Bill? There is nothing left, Sir, and therefore if all the criminal laws of the land are altogether annulled, then this one Bill will be sufficient to coerce people and put all civil liberty in jeopardy. Sir, this is a Bill, on which I should have thought that at least the Hon. the Ministers would have resigned because it expresses want of confidence against themselves (the Hon. Sri T. Prakasam : ‘Hear, hear’), because 150 years of British rule has not brought into being a legislation of this nature. If people could have lived in peace, if law and order had been maintained during the last 150 years by the ordinary laws of the land that have been in practice up till now, it is a wonder that this Ministry is not able to carry on the administration with those laws and feels the necessity for placing on the Statute book a law of this nature. It is in fact a substitution of the Ordinance that was placed before this House some time back and if the Hon. the Premier was not justified in promulgating an Ordinance of this nature some time back, I feel he is not justified in bringing forward a measure of this kind before this House. The liberty of the press, of which of all the persons the Hon. the Prime Minister must have been the staunchest advocate, because he himself was the editor of a distinguished paper and he himself protested against the encroachment upon the liberties of the press when he was the editor and if a Bill of this kind is sponsored by his Ministry, I feel it does not redound to his credit—to say the least, it is a disgrace to any Government to bring forward a measure of this kind to suppress the liberties of the people. It is the Congress that advocated civil liberties when they went into the wilderness. Excuse me, Sir, if I say they had committed acts more objectionable than the acts that are attributed to the Communists of the present day. It is an ignoble effort on the part of this Ministry to suppress political opposition and it is nothing more than that. The Communists are their political opponents and they want to suppress the Communists and I feel this is not a method which can be said to be a noble attempt on the part of any Ministry to suppress political agitation of this kind. Therefore, Sir, we on this side of the House feel that a measure of this kind is not at all necessary. Sir, my hon. Friend on the other side said that things that are happening in Malabar are such as to require a legislation of this kind. If the situation is so very bad, then martial law can be applied and people can be told plainly that they are not living under ordinary circumstances and that they are living in a state of unusual turmoil in the country, but here we are having a Government which is called a National Government, a Government which is called a democratic Government and in the name of democracy if Acts of this kind are to be enacted, I feel, Sir, that a Government which calls itself democratic has no place in this

6th March 1947] [Abdul Latif Farookhi Sahib Bahadur]

House. If, Sir, the liberties of the people are suppressed, freedom of speech is gagged, freedom of association is prevented, the press is not allowed to express itself, I should rather say good-bye to all forms of democracy (K. Uppi Sahib Bahadur : hear, hear). If I may say so, Sir, even the British bureaucracy were more considerate, more democratic than the gentlemen who are occupying the ministerial benches to-day. Sir, this is something like an atom bomb on the liberty of the people. I read in a newspaper that when the German scientists invented the atom bomb and informed Hitler about it, he went and saw the establishment and said, I would rather go down than use it against humanity."

MR. PRESIDENT :—" It is news to us that Hitler knew the atom bomb."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" That is what the papers published. It is said that it was the Germans who first invented the atom bomb. Now, Sir, I would say, it would have been more graceful on the part of the Hon. the Prime Minister when the draftmen of the Government have drafted this Bill and brought it to him, he should have said, I do not want to encroach upon the liberties of the people; it is better I quit this office rather than use it against my own countrymen. Therefore, Sir, I feel that the hand of oppression of this ministry is stretched in all directions. Sir, the press is justified in publishing news which may perhaps be very inconvenient to the party in power. But, are we to gag the press, Sir, on account of that? I remember that in the House of Commons a question was raised to take action against the editor of the *Times* who published certain news which were calculated to bring about a misunderstanding between England and Russia, but the House of Commons refused to do it. If an Act of this kind is brought forward before the House of Commons, the members of the House of Commons will revolt against it and say, we do not want this ministry which is capable of bringing forward such measures. Unfortunately, Sir, we on this side of the House are, to say very frankly, helpless, but for which, we would have told the Prime Minister, the Law Minister and all other Ministers, take care; you cannot play with the liberties of the people; with the liberties of the press and with the liberty of the society as a whole in the manner in which you are trying to do.

" Sir, I do not think that any freedom-loving citizen of this land, anybody who can appreciate freedom can for a single moment feel that there is the slightest justification for a measure of this kind to be passed into law. I am certain, Sir, that whatever may be the contingencies, whatever may be the necessities that have prompted the Premier, the Law Minister and other Ministers who are still occupying the Treasury Benches, to bring forward a measure of this kind, I feel they in their heart of hearts feel that they are not doing justice to the people. They are feeling. I know that. They may not express it. Anyhow, they are feeling that way, Sir."

MR. PRESIDENT :—" They say so."

[6th March 1947]

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" If they say so then they must give up this Bill. There is no use merely saying so. There must be action also according to what they are saying. They also feel that the party must cling to their present position. They are also feeling that if they are going to allow other people to have the upper hand then naturally in the next elections perhaps the latter will be occupying the places which the Hon'ble Congress members are now occupying."

MR. PRESIDENT :—" I propose to rise at 8 p.m. I hope the hon. Member will finish his speech by then."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" That means another five minutes. That is more than sufficient for me. Sir.

" I am not a Communist, Sir. But as a Muslim I am a greater Communist than the Communists because I value the liberty of people. I have a great regard for the equality of mankind. Whatever the Communists might have done Sir they have done nothing more than what they have been taught by the Congress people, they are advocating the very principles which were adumbrated by the Congress leaders. If they say that the land does not belong to the landholders or the mirasdar what is wrong Sir? They say what you have taught them to say. You are going to pass the Zamindari Act according to which zamindars have no right and it is the agriculturists and the labourers that are the real proprietors and real owners of the land. What more do the Communists say? Why should you punish them for that? "

(At this stage there was some interruption by some hon. Members.)

MR. PRESIDENT :—" It is better that the hon. Member is allowed to continue his speech."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Some times it is good that I do not hear, sometimes it is good that I hear because I may know what they are saying. What is it that these Communists want, they simply want the right of the common man to be protected."

SRI C. N. MUTHURANGA MUDALIYAR :—" I want to know whether the labourers working in the tanneries at Pallavaram are the proprietors of those shops, according to the hon. Member."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Certainly, Sir. If it comes to a question like that, Sir, I would rather say let the tanners admit the claims of the labourers than allow mirasdar and zamindars like my hon. Friend Mr. Muthuranga Mudaliyar to trample upon the liberties of the poor people."

SRI C. N. MUTHURANGA MUDALIYAR :—" I am sorry I am not a zamindar."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" He has escaped the law. He may be a mirasdar or a man with a vested

6th March 1947] [Abdul Latif Farookhi Sahib Bahadur]

interest. Along with these people there are certain other people in whose hearts they the Communists have gained ground and to curb whose influence acts of this kind are being placed on the Statute book."

SRI K. MADHAVA MENON :—" May I point out to the hon. Member, Sir, that the Communists wanted to distribute the paddy that they had not grown but the paddy which other people had grown. They wanted to do that, Sir."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I did not in the least refer to my hon. Friend. I did not have anything that he said in mind when I was speaking."

K. UPPI SAHIB BAHADUR :—" I am not at all a Communist or am I in sympathy with them but I am referring to incident that took place. These people wanted that the paddy should be given to the Producer cum Consumer Co-operative Societies."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I was not referring to that at all. What I say is ambition is created in the minds of the poor people. Ambition has been created in the minds of the people and who was responsible for creating the ambition and now what are you going to do? Simply you are trying to prevent the causes. Mr. Natarajan said prevention is better than—(Voices 'cure'). No, he said something else. It is not cure. You are trying to put a stop to the causes, stop to the effects. You have yourselves created the causes. Ambition has been created, enlightenment has been created in the minds of the ordinary man. That has been to your credit. We are thankful to the Congress people for that. He has been made aware of his liberties and rights. After bringing home to his mind the fact that he has as a citizen certain liberties, privileges and rights, are you going to now curb those liberties? Are you going to stand in the way of the ventilation of those rights and liberties? I say, Sir, you are not justified in doing so. This act is aiming only at that and nothing else. Therefore, I feel, Sir, that an enactment of this kind should have no place on the Statute book and I therefore oppose this Bill."

MR. PRESIDENT :—" There are only two more speakers Mr. Ahmed Ibrahim Sahib and Dr. Tajuddin and after them, the Prime Minister. The consideration of the Bill will be taken up at 5 p.m. to-morrow. The House now stands adjourned to meet again at 11 a.m. to-morrow, for general discussion of the Budget proposals."

V.—PAPER LAID ON THE TABLE OF THE HOUSE.

The Madras Maintenance of Public Order Bill, 1947 (L A. Bill No. 8 of 1947) passed by the Assembly and received therefrom in the Council.